

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 30/2025

Date : 28-07-2025

Present:

1. Sri. Prathap Kumar S

Additional Commissioner of Commercial Taxes

... Member (State)

2. Sri. Kalyanam Rajesh Rama Rao

Additional Commissioner of Customs & Indirect Taxes ... Member (Central)

1.	Name and address of the applicant	M/s. BANGALORE METRO RAIL CORPORATION LIMITED, 3rd Floor, BMTC Complex, Complex, K H Road, Shanthinagar, Bengaluru Urban-560027.
2.	GSTIN or User ID	29AAACB4881D1ZQ
3.	Date of filing of Form GST ARA-01	18-12-2024
4.	Represented by	Sri. Ravi Shankar, Advocate & Authorised Representative
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, Bengaluru South Commissionerate, Bengaluru. (Range-BSD1)
6.	Jurisdictional Authority – State	ACCT, LGSTO-40, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide reference No. DC2909240014804 dated 06.09.2024.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Bangalore Metro Rail Corporation Limited (herein after referred to as 'Applicant'), 3rd Floor, BMTC Complex, K H Road, Shanthinagar, Bengaluru Urban-560027, Karnataka, having GSTIN 29AAACB4881D1ZQ, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act, KGST Act.



2. The applicant M/s Bangalore Metro Rail Corporation Limited stated that they are a Company incorporated under the Companies Act, 1956; is a joint venture of Government of India and Government of Karnataka (both the Government(s) holding 50% equity shareholding) and is a Special Purpose Vehicle entrusted with the responsibility of implementation and operation of Bangalore Metro Rail Project.

The applicant further stated that the metro project undertaken by them has a north-south corridor measuring 17 km long and for which, the total project cost is estimated to be INR 4,202 crores; the Applicant is the absolute owner of the entire Metro network, tracks and Metro stations along with the structures constructed thereon within the jurisdiction of Bangalore City; the Applicant, with an intention to augment funds for the metro project has identified and invited applications from private entities/companies to partly fund the total project cost and M/s Embassy Property Developments Private Limited ("EPDPL" or "Concessionaire") had agreed to invest certain amount for construction of the "Kadubeesanahalli Metro Station" on the Outer Ring Road in consideration of which the applicant will grant certain concession.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a) Whether the Applicant is a "Government Authority" vide Paragraph-2(zf) of Notification no. 12/2017-CT (Rate) dated 28.06.2017 as amended from time to time and would fall within the scope of Sl.No.4 of the said exemption notification?
- b) Whether the activity of grant of concession in terms of MOU dated 04.06.2018 to the "Concessionaire" is eligible for exemption from payment of GST vide Sl.Nos.4 of exemption notification no.12/2017-CT (Rate) dated 28.06.2017. Consequently, no GST needs to be discharged by the Applicant on such activity?

4. Admissibility of the Application : The applicant claimed that the questions in respect of which advance ruling has been sought for are covered under the issues "*Applicability of notification issued under the provisions of the Act*" and "*Determination of the liability to pay the tax on any goods or services both*". Thus the instant application is admissible under Section 97(2)(b) & 97(2)(e) of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE: The applicant furnishes the following facts relevant to the issue:

5.1 The Applicant has entered into a Memorandum of Understanding ("MOU") dated 04.06.2018 with EPDPL wherein the following has been agreed upon:



a. Scope of Concession

- (i) Concessionaire shall be entitled to maximum of 2 access points from concourse level of station or from walkway from where connecting bridge can be constructed at own cost
- (ii) The name of the station can be determined by the Concessionaire and may include as a prefix the name of the Concessionaire but the suffix shall at all times include the location name of the station i.e. Kadubeesanahalli.
- (iii) Concessionaire shall be exclusively entitled to utilize 1000 sq. ft of wall space in station premise for advertising activities or may monetarily exploit the same by sharing it with any person
- (iv) Concessionaire shall be exclusively entitled to an area measuring 3000 sq. ft located in station for commercial development which shall include retail stores, food and beverage and other kiosks or may monetarily exploit the same by sharing it with any person

b. Fees and Expenses

For the aforesaid concession, EPDPL has agreed to pay an amount of INR 100 crores to the Applicant in instalments which are linked to the phases of construction and execution of the project work undertaken.

c. Tenure

The period of concession and permission granted hereunder will be a period of 30 years starting from the date of commencement of commercial operations of the station and subsequent extension, to be agreed on mutual basis.

(Copy of MOU dated 04.06.2018 is enclosed to this application as **Annexure-A**).

5.2 Thereafter, basis Clause 1.1 of the MOU, an agreement for Assignment and Novation of Rights dated 27.11.2020 was entered into between EPDPL and Vikas Telecom Private Limited. As per the said agreement, EPDPL had fully and irrevocably assigned, transferred and novated all its rights, benefits and obligations under the MOU and all letters to Vikas Telecom Private Limited.

5.3 The Applicant understands that the activity of grant of concession in terms of the MOU dated 04.06.2018 to the "Concessionaire" (EPDPL or VTPL) is not liable for payment of GST since the same is exempted from payment of GST vide Sl.No.4 of notification no.12/2017-CT (Rate) dated 28.06.2017 and therefore desirous of understanding the applicability of the exemption notification on the activity of grant of concession.

BMRCL



6. Applicant's Interpretation of Law :

6.1 The Applicant understands that levy and collection of the CGST is governed by the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') and levy and collection of SGST is governed by respective state GST Acts [Karnataka Goods and Services Tax Act (KGST), 2017 for the state of Karnataka]. Further, GST is a tax to be levied on supply of goods and/or services. Also, the Government has in exercise of the powers conferred under section 11 of the CGST Act, 2017 has issued exemption notification bearing no.12/2017-CT (Rate) dated 28.06.2017 wherein various supply of services are exempted from payment of GST either absolutely or subject to fulfilment of certain conditions, as the case may be.

6.2 The Applicant understands that they being a Governmental authority within the meaning of the said expression as per Paragraph-2(zf) of Notification No. 12/2017-CT (Rate) dated 28.06.2017, the activity of grant of certain concession to the Concessionaire in terms of the MOU dated 04.06.2018 which are in relation to Bangalore Metro Rail Project, implemented and operated by the Applicant would come within the scope of entry vide Sl. No. 4 of the said exemption notification. For the sake of reference, Sl.No.4 and 5 of the exemption notification is abstracted below:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
4	Chapter 99	Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.	Nil	Nil
5	Chapter 99	Services by a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.	Nil	Nil

6.3 It is the understanding of the Applicant that in terms of the Sl. Nos. 4 & 5 (abstracted above), the services rendered by a 'governmental authority' by way of any activity "in relation to" any function entrusted to a-

- municipality under article 243W of the Constitution or
- a Panchayat under article 243G of the Constitution

is exempted from payment of GST.



6.4 The expression 'governmental authority' is defined in Paragraph-2(zf) of the said Exemption Notification, which reads thus, -

"(zf) "Governmental Authority" means an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution."

6.5 Based on the above definition, the Applicant believes that they would fall within the definition of "governmental authority" as defined above inasmuch as they are covered within "any other body" established by any Government with 90% or more participation by way of equity or control to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution. The Applicant is a joint venture of both the Government of India as also Government of Karnataka where each of the Governments are holding 50% equity.

6.6 In support of the above understanding, the Applicant place reliance on the ruling given by AAR-Andhra Pradesh in the case of ***In Re: Amaravathi Metro Rail Corporation Ltd., reported in 2018 (18) GSTL 851 (AAR-GST): [2018] 99 taxmann.com 104 (AAR - ANDHRA PRADESH)*** wherein the AAR has held that Amaravathi Metro Rail Corporation Ltd. is a Government authority as per the Exemption Notification No. 12/2017 - Central Tax dated 28th June, 2017 since the same was set up by the Government of Andhra Pradesh. The Applicant believes that they are similarly placed except for the difference that the Applicant is a joint venture of both Government of India and the Government of Karnataka and whereas AMRCL is a fully State-owned company.

6.7 Thus, by placing reliance on the aforesaid ruling as also going by plain meaning of the expression "government authority" as per the definition abstracted above, the Applicant believes that they are covered within the meaning of a "governmental authority" as per paragraph-2(zf) of the Exemption notification.

6.8 Further, it is submitted that Sl. Nos. 4 & 5 of the Exemption Notification (abstracted above) exempts "services" rendered by a 'governmental authority' by way of any activity "in relation to" any function entrusted to a municipality under article 243W of the Constitution or a Panchayat under article 243G of the Constitution. The Applicant believes that the words and expressions used in the said Sl. Nos. being "any activity"; "in relation to"; "any function" are very wide and expansive in nature. The word "any" according to the dictionary meaning indicates "all" or "every" kind of activity. Further vide Column (2) of Sl.No.4 and/or 5 of the



exemption notification in question provides "Chapter 99". Thus, on a conjoint reading of Column (2) (which provides for Chapter 99) read with the expression "any activity" would encompass every kind of services enumerated in Chapter 99. Thus, the activity of grant of concession would fall within the scope of "any activity" falling under Chapter 99.

6.9 It is further submitted that the expression(s) "any activity"; "in relation to"; "any function" employed in Sl.no.4 and/or 5 of the exemption notification is again very wide. The expression "in relation to" is expansive in nature as held by the Honorable Supreme Court in a catena of judgments including in *Doypack Systems Pvt Ltd v. Union of India*, reported in AIR 1988 SC 782.

6.10 The Applicant understands that the expression "any function entrusted to a municipality under Article 243W of the Constitution or to a Panchayat under Article 243G of the Constitution are very wide in scope and ambit. It is stated that in terms of Article 243W of the Constitution of India, the State Legislature may by law endow Municipalities with such powers and authority *inter alia* with respect to the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule to the Constitution. The Twelfth Schedule to the Constitution covers the fields such as - **(i) Urban planning including town planning; (ii) Regulation of land-use and construction of buildings; (iii) Planning for economic and social development, (iv) Roads and bridges, (v) Provision of urban amenities and facilities such as parks, gardens, playgrounds, (vi) Public amenities including street lighting, parking lots, bus stops and public conveniences,** etc. Thus, a Municipality may be entrusted with such powers and authority *inter alia* in relation to the matters listed in the Twelfth Schedule to the Constitution, which the Applicant believes are wide fields/matters. It is understanding of the Applicant that, -

- (a) Implementation of Bangalore Metro Rail Project within the Bangalore city necessarily involves "urban planning and town planning" functions and the same would have to construed as "any service in relation to any function entrusted to a municipality under article 243W read with Twelfth Schedule to the Constitution.
- (b) Similarly, the expression "regulation of land-use and construction of buildings" would compass the acquisition of land for Bangalore Metro Rail project and construction of metro-stations involves construction of buildings specifically covered under article 243W read with Twelfth Schedule to the Constitution.
- (c) Again, the expression "planning for economic and social development" covered in the Twelfth Schedule to the Constitution is of very wide import. The Applicant believes that Bangalore Metro Rail Project is envisioned with overall economic and social development" of Bangalore city overall.



- (d) Further, Twelfth Schedule to the Constitution also envisages "provision of urban amenities and facilities" and usage of the expression "such as" is only illustrative. The function of "provision of urban amenities and facilities" would necessarily encompass Bangalore Metro Rail Project which is undisputedly "an urban amenities and facility". Honorable Supreme Court in *Royal Hatcheries (P) Ltd v. State of Andhra Pradesh*, reported in AIR 1994 SC 666 has held that the words "such as" indicate that what are mentioned thereafter are only illustrative and not exhaustive.
- (e) Last but not the least, Twelfth Schedule to the Constitution also envisages "public amenities" which expression includes Metro Rail projects as well.

6.11 On a conjoint reading of the provisions of Article 243W read with Twelfth Schedule to the Constitution and given the text and tenor of Sl. No. 4 of the Exemption Notification, the Applicant believes and understands that the "grant of concession" by the Applicant which is undisputedly in relation to Bangalore Metro Rail Project would fall within the scope of Sl. No. 4 being services rendered by a 'governmental authority' by way of any activity "in relation to" any function entrusted to a municipality under article 243W of the Constitution as delineated in the foregoing paragraphs and accordingly, is exempted from payment of GST.

6.12 Further, Sl. No. 4 of the Exemption Notification encompasses "every service falling under Chapter 99" which is evident from column (2) of Sl. No. 4 or 5 of Notification No. 12/2017-CT (Rate) which states "Chapter 99". This is also evident from the description of services mentioned in column (3) of Sl. No. 4 or 5 which uses the expression "Services" (plural). Thus, every kind of "Services" falling under Chapter 99 rendered by a 'governmental authority' by way of any activity "in relation to" any function entrusted to a municipality under article 243W of the Constitution is exempted from payment of GST.

6.13 Further, the above understanding is also supported by the ruling given by AAR-Andhra Pradesh in the case of ***In Re: Amaravathi Metro Rail Corporation Ltd., (supra)*** wherein vide para-4.3.1 & 4.3.2 of the ruling, the AAR has also held that – "*Urban Planning is a function entrusted to Municipality under Article 243W of the Constitution. The applicant has invited our attention to Ministry of Urban Development, Government of India in K-14011/07/2007/Metro/ UT, dated 29-8-2007, addressed to all the Chief Secretaries of the States and Union Territories, informing the decision that the urban transport and urban planning must go together and that urban transport is an integral part of urban development, which will help in ensuring that urban transport remains an integral part of urban planning at all the times and cities are planned in a wholistic manner. Therefore, we held that Urban Transportation also is a part of Urban Planning*". Further, vide para-4.3.3 of the ruling, Amaravathi Metro Rail project would also come under the expression "public amenities" envisaged in Twelfth Schedule to the Constitution. Finally, the ruling held that the consultancy services for preparation of transport studies comes within the purview of the functions of municipality under article 243W read with Twelfth Schedule to the Constitution of India and accordingly falls within the purview of the exemption notification in question



PERSONAL HEARING PROCEEDINGS HELD ON 27.06.2025

7. Sri. N Anand, Advocate & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

10. The applicant sought advance ruling in respect of the questions at para 3 supra and contends that they are a "Government Authority" in terms of para 2(zf) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended. In this regard we invite reference to the said para 2(zf), which is as under:

"(zf) "Governmental Authority" means an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution."

11. Now we proceed to examine whether the applicant has been established **to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution** or not. In this regard we invite reference to the list of functions entrusted to municipality under article 243 W of the constitution, which is as under:

243W : Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow



(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

There are 18 items in the twelfth schedule of the Constitution which are as below:

Twelfth Schedule [Article 243W of the Constitution (Seventy-Fourth Amendment) Act, 1992]

1. **Urban planning including town planning.**
2. **Regulation of land-use and construction of buildings.**
3. **Planning for economic and social development.**
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. **Provision of urban amenities and facilities such as parks, gardens, playgrounds.**
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.



17. Public amenities including street lighting, parking lots, bus stops and public conveniences.

18. Regulation of slaughter houses and tanneries.

12. Now we proceed to examine whether the impugned services are provided by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution or not.

The applicant contends that they have been established to carry out either of the following functions entrusted to a Municipality under article 243W of the Constitution, in relation to the matters listed in *Twelfth Schedule* of the Constitution i.e.

- a) *Urban planning including town planning.*
- b) *Regulation of land-use and construction of buildings.*
- c) *Planning for economic and social development.*
- d) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
- e) *Public amenities including street lighting, parking lots, bus stops and public conveniences.*

13. It is pertinent to mention here that the applicant being a commercial entity undertake the works relevant to their business and do not carry out for / on behalf of the municipality (BBMP, the Municipal Corporation for Bangalore). The applicant do not have any agreement with the BBMP to carry out their functions. Neither of the aforementioned functions have been entrusted to the applicant by the BBMP. The applicant has not been established to carry out either of the functions of *Urban planning including town planning, Regulation of land-use and construction of buildings, Planning for economic and social development, Provision of urban amenities and facilities such as parks, gardens, playgrounds and Public amenities including street lighting, parking lots, bus stops and public conveniences.* The applicant constructs the metro stations exclusively to carry on their business.

Further the applicant heavily rely on public amenities specifically stressing upon bus stops contending that the metro stations are alike to the bus stops. The applicant contends that public amenities include Metro Rail Projects as well. It is pertinent to mention here that the public amenities so constructed as part of functions entrusted to municipality become the property of the Local Government i.e. BBMP in the instant case. The applicant being a commercial entity own the metro stations and it is the exclusive property of the applicant and thus such properties can't take the colour of public amenities. In view of the above, the applicant is not covered under "Government Authority" and thus we do not intend to examine further issues as the main requirement only has not been fulfilled.



14. In view of the foregoing, we pass the following

RULING

- a) The Applicant does not qualify to be a "Government Authority" in terms of Paragraph-2(zf) of Notification no. 12/2017-CT (Rate) dated 28.06.2017 as amended.
- b) The activity of grant of concession in terms of MOU dated 04.06.2018 to the "Concessionaire" is not eligible for exemption from payment of GST vide Sl.Nos.4 of exemption notification no.12/2017-CT (Rate) dated 28.06.2017, as the applicant does not qualify to be a "Government Authority".

5-5-4
(Prathap Kumar S)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru
Bengaluru - 560 009

Date : 28-07-2025

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bengaluru South Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-40, Bengaluru.
5. Office Folder.

[Signature]
(Kalyanam Rajesh Rama Rao)

Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

